

PEARSON, MJ

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MICHAEL ABDEL SHAHID,

Plaintiffs,

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendants.

)  
) CASE NO. 1:08CV01480  
)

)  
) JUDGE ECONOMUS  
)

)  
) MAGISTRATE JUDGE PEARSON  
)

)  
) **REPORT AND RECOMMENDATION**  
)

This matter is before the Court on a Joint Stipulation For Attorney Fees filed by the parties, pursuant to the Equal Access to Justice Act (“EAJA”), [28 U.S.C. § 2412](#). [ECF No. 24](#). District Court Judge Peter C. Economus referred the matter to the undersigned Magistrate Judge for the generation of a Report and Recommendation pursuant to [28 U.S.C. § 636\(b\)\(3\)](#), [Federal Rule of Civil Procedure 72\(b\)](#) and Local Rule 72. [ECF No. 23](#).

**I. Background**

Plaintiff Michael Abdelshahid (“Plaintiff”), filed a complaint on June 19, 2008 seeking judicial review of the Social Security Administration’s denial of benefits. [ECF No. 1](#). Michael Astrue, the Commissioner of the Social Security Administration (“Defendant”), answered on October 1, 2008. [ECF No. 10](#). Plaintiff and Defendant filed briefs supporting their positions on December 15, 2008, and February 13, 2009, respectively. [ECF Nos. 15 & 17](#).

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On July 10, 2009, the undersigned issued a Report and Recommendation. [ECF No. 18](#). The undersigned recommended that the final decision of the Commissioner denying benefits be reversed and remanded, pursuant to the [Fourth Sentence of 42 U.S.C. § 405\(g\)](#) with instructions that, upon remand, the ALJ evaluate the extent of Michael Abdelshahid's bilateral hearing loss and the effect of that hearing loss on his ability to function in a manner consistent with governing regulations. [ECF No. 18](#). Subsequently, Defendant filed objections to the Report and Recommendation on July 24, 2009, [ECF No. 19](#), to which Plaintiff responded on August 3, 2009. [ECF No. 20](#). On September 22, 2009, Judge Economus adopted the Report and Recommendation and thereby dismissed the case and remanded it to the Social Security Administration. [ECF No. 21](#).

Plaintiff filed a motion for attorney fees pursuant to the EAJA on October 29, 2009. [ECF No. 22](#). On November 10, 2009, the parties filed a Joint Stipulation For Attorney Fees Pursuant to the Equal Access to Justice Act. [ECF No. 24](#). The parties stipulate to an award of attorney fees in the amount of \$2,000.00, pursuant to the EAJA, [28 U.S.C. § 2412](#) and, "that this amount is appropriate for any and all claims Plaintiff may have under the EAJA in this civil action." [ECF No. 24 at 1](#). Further, and "[i]n accordance with Plaintiff's written assignment to his counsel, the award will be payable directly to Plaintiff's counsel." [ECF No. 24 at 1](#).

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## **II. Recommendation**

The EAJA provides:

[A] court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

[28 U.S.C. § 2412\(d\)\(1\)\(A\)](#). The parties agree that an award of \$2,000.00 in fees is appropriate and the undersigned's review of the record reveals no basis for disagreement.

Therefore, the undersigned recommends granting the parties' Joint Stipulation For Attorney Fees Pursuant to the Equal Access to Justice Act, [ECF No. 24](#), and issuing an order awarding Plaintiff a total amount of \$2,000.00 in attorney's fees which, in accordance with Plaintiff's written assignment to his counsel, should be payable directly to Plaintiff's counsel.

November 13, 2009  
Date

s/ Benita Y. Pearson  
United States Magistrate Judge

## **OBJECTIONS**

Objections to this Report and Recommendation must be filed with the Clerk of Courts within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court's order. See [United States v. Walters, 638 F.2d 947 \(6th Cir. 1981\)](#); see also [Thomas v. Arn, 474 U.S. 140 \(1985\), reh'g denied, 474 U.S. 1111 \(1986\)](#).